



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/462,789	01/12/2000	FUMITAKE YODO	7246/58775	5520

7590 11/03/2003

JAY H MAIOLI
COOPER & DUNHAM
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

EXAMINER

LIN, KENNY S

ART UNIT	PAPER NUMBER
----------	--------------

2154

DATE MAILED: 11/03/2003

//

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/462,789	Applicant(s) YODO ET AL.	
	Examiner Kenny Lin	Art Unit 2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6-11 and 16-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6-11 and 16-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1, 6-11, 16-21 are presented for examination.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. code not included in this office action can be found in prior office action.

3. Claims 1, 7-8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morioka et al, U.S. Patent Number 6,324,334, in view of Raju et al, U.S. Patent Number 6,067,541.

4. Morioka et al and Raju et al were cited in the previous office actions.

5. As per claim 1, Morioka et al taught the invention substantially as claimed including a recording and reproducing apparatus (fig.1, col.2, lines 19-22), comprising:

- a. A storing portion for storing data programs and including a first management area for storing index data for managing said data programs (col.1, lines 46-52, col.8, lines 22-29, 45-49, col.18, lines 8-11); and a second management area for recording management data for identifying said data programs and/or said index data (col.1, lines 54-64, col.7, lines 61-66, col.12, lines 1-5, 13-20, 58-67);
- b. A recording and reproducing portion recording and reproducing data from said storing portion (col.18, line 65 to col.19, line 6, col.19, lines 15-36); and

Art Unit: 2154

- c. A signal generating portion for generating a perfect index data based on said management data so that said data programs are reproduceable by said recording and reproducing portion (col.1, lines 54-64, col.4, lines 53 to col.5, line 7, col.8, lines 45-61, col.11, lines 20-32, col.12, lines 2-5);

Wherein when said signal generating portion transmits said data to said recording and reproducing portion (col.15, lines 9-12, 19-26).

6. Morioka et al did not specifically teach that wherein said index data is an imperfect index data so that said data programs are unreproduceable from said storing portion; and that the recording and reproducing portion rewrites said imperfect index data with said perfect index data and is enabled to reproduce said stored data programs stored in said storing portion. However, it would have been obvious that the storing portion can store index data that are corrupted. Raju et al taught a method to generate perfect index data and rewrites over the corrupted index data (col.10, lines 64-67, col.11, lines 2-9). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Morioka et al and Raju et al because Raju et al's teaching of rewriting imperfect index data with perfect index data would correct the corrupted index data that cause the data programs to be unreproduceable in Morioka et al's system, therefore enable the system to reproduce the stored data using the perfect index data.

7. As per claim 11, Morioka et al taught the invention substantially as claimed including a recording and reproducing apparatus (fig.1, col.2, lines 19-22), comprising:

Art Unit: 2154

- a. A recording and reproducing portion, having a storing portion for storing data programs and including a first management area for storing index data for managing said data programs (col.1, lines 46-52, col.8, lines 22-29, 45-49, col.18, lines 8-11), and a second management area for recording management data for identifying said data program and/or said index data (col.1, lines 54-64, col.7, lines 61-66, col.12, lines 1-5, 13-20, 58-67); and said recording and reproducing portion records and reproduces data to/from said storing portion (col.18, line 65 to col.19, line 6, col.19, lines 15-36); and
- b. A server unit (col.18, lines 1-7, 34-42) having a signal generating portion for generating a perfect index data based on said management data so that said data program are reproduceable by said recording and reproducing portion (col.1, lines 54-64, col.4, lines 53 to col.5, line 7, col.8, lines 45-61, col.11, lines 20-32, col.12, lines 2-5),

Wherein when said signal generating portion transmits said data to said recording and reproducing portion (col.15, lines 9-12, 19-26).

8. Morioka et al did not specifically teach that wherein said index data in the management area is an imperfect index data so that said data programs are unreproduceable from said storing portion; and that the recording and reproducing portion rewrites said imperfect index data with said perfect index data and is enabled to reproduce said store stored data programs stored in said storing portion. However, it would have been obvious that the storing portion can store index data that are corrupted. Raju et al taught a method to generate perfect index data and rewrites

Art Unit: 2154

over the corrupted index data (col.10, lines 64-67, col.11, lines 2-9). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Morioka et al and Raju et al because Raju et al's teaching of rewriting imperfect index data with perfect index data would correct the corrupted index data that cause the data programs to be unreproducible in Morioka et al's system, therefore enable the system to reproduce the stored data using the perfect index data.

9. As per claim 7, Morioka et al and Raju et al taught the invention substantially as claimed in claim 1. Morioka et al further taught to include a terminal unit connected to the recording and reproducing portion and a server unit containing the signal generating portion that the server unit is being connected to the terminal unit through a communication network (col.18, lines 1-7, 34-42).

10. As per claim 8, Morioka et al and Raju et al taught the invention substantially as claimed in claim 1. Morioka et al further taught to include a terminal unit containing the signal generating portion, the terminal unit being connected to the recording and reproducing portion and a server unit connected to the terminal unit through a communication network (col.18, lines 1-7, 34-42).

11. Claims 6, 9-10 and 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morioka et al, U.S. Patent Number 6,324,334, Raju et al, U.S. Patent Number 6,067,541, as applied to claims 1 and 11 above, and further in view of Russo, U.S. Patent Number 5,619,247.

12. Russo was cited in the previous office action.

13. As per claims 6 and 16, Morioka et al and Raju et al taught the invention substantially as claimed in claims 1 and 11. Raju et al further taught wherein when said recording and reproducing portion reproduces said data programs stored in said storing portion, said recording and reproducing portion supplies said perfect index data to said signal generating portion (col.10, lines 64-67, col.11, lines 2-9). Morioka et al and Raju et al did not specifically teach to include a charge processing portion for performing a charging process before said signal generating portion generates said perfect index data. Russo taught to have a charge processing portion for performing a charging process (col.3, lines 59-61, col.4, lines 47-53) wherein the recording and reproducing portion supplies a charging process signal to the charge processing portion to perform the charging process (col.10, lines 16-26). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Morioka et al, Raju et al and Russo because Russo's teaching of charging users on a pay-per-use basis enables Morioka et al and Raju et al's recording and reproducing apparatus to have a fair way of billing system that will only charge the user if they use the service.

14. Morioka et al, Raju et al and Russo did not specifically teach that after the charge processing portion has completed the charging process, the signal generating portion generates the perfect index data. However, Russo did teach that "the triggering of account debit may occur at different points" (col.10, lines 16-22). It would have been obvious to one of ordinary skill in

Art Unit: 2154

the art at the time the invention was made to combine the teachings of Morioka et al, Raju et al and Russo and further allows signal generating portion to generate the permission signal after the charging process is performed in order to bill the users, ensuring the users has correctly input a billing method or sufficient credit amount, before the audio file is reproducing permission is granted.

15. As per claims 9 and 17, Morioka et al and Raju et al taught the invention substantially as claimed in claims 1 and 11. Morioka et al further taught to have the signal generating portion supplies data to the recording and reproducing portion (col.4, lines 57 to col.5, line 7, col.15, lines 9-12, 19-26). Morioka et al did not specifically teach that the data supplied is perfect index data. Raju et al taught to rewrite perfect index data (col.11, lines 2-9). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Morioka et al and Raju et al because Raju et al' teaching of replacing perfect index data with a corrupted index data help to correct the errors of corruption in Morioka et al's apparatus. Morioka et al and Raju et al did not specifically teach to include a charge processing portion wherein when the recording and reproducing portion reproduces the stored content data, the recording and reproducing portion supplies a charging process signal to the charge processing portion so that the charge processing portion performs the charging process. Russo taught to have a charge processing portion (col.3, lines 59-61, col.4, lines 47-53) wherein the recording and reproducing portion supplies a charging process signal to the charge processing portion to perform the charging process (col.10, lines 16-26). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of

Art Unit: 2154

Morioka et al, Raju et al and Russo because Russo's teaching of charging users on a pay-per-use basis enables Morioka et al and Raju et al's recording and reproducing apparatus to have a fair way of billing system that will only charge the user if they use the service.

16. Morioka et al, Raju et al and Russo did not specifically teach that after the charge processing portion has completed the charging process, the signal generating portion supplies the permission signal to the recording and reproducing portion. However, Russo did teach that "the triggering of account debit may occur at different points" (col.10, lines 16-22). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Morioka et al, Raju et al and Russo and further allows signal generating portion to supply the permission signal to the recording and reproducing portion after the charging process is performed in order to bill the users, ensuring the users has correctly input a billing method or sufficient credit amount, before the audio file is reproduced.

17. As per claims 10 and 18, Morioka et al, Raju et al and Russo taught the invention substantially as claimed in claims 9 and 17. Raju et al further taught that wherein the storing portion stores and said perfect index data along with said data programs, and said recording and reproducing portion rewrites said imperfect index data with said perfect index data received from said signal generating portion (col.10, lines 64-67, col.11, lines 2-9). Russo further taught that wherein the storing portion stores the charging process signal and said perfect index data along with the data programs (col.4, lines 47-53).

Art Unit: 2154

18. As per claim 19, Morioka et al, Raju et al and Russo taught the invention substantially as claimed in claim 17. Morioka et al further teach that recording and reproducing portion is connected to the server unit through a communication network (col.18, lines 1-7, 34-42).

Morioka et al and Raju et al did not specifically teach that a charge processing portion connected to recording and reproducing portion. However, a charge processing portion connected to recording and reproducing portion is rejected for the same reason in claim 17 using Russo.

19. As per claim 20, Morioka et al, Raju et al and Russo taught the invention substantially as claimed in claim 19. Morioka et al, Raju et al and Russo did not specifically teach to include identification data for the terminal unit. However, it is well known in the art to use authenticating process to gain Network security and also to verify proper user account information using identification data. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide authenticating process to check identification data for the terminal unit to Morioka et al, Raju et al and Russo's reproducing apparatus to ensure Network security and verify proper billing information.

20. As per claim 21, Morioka et al, Raju et al and Russo taught the invention substantially as claimed in claim 20 including that charge processing portion connected to said server unit through said communication network (see claim 19 rejection) and charge processing portion performs charging process (see claim 17 rejection). Raju et al further taught rewrite imperfect index data with said perfect index data received from said signal generating portion (col.10, lines 64-67, col.11, lines 2-9).

Conclusion

21. Applicant's arguments filed 7/24/2003, regarding to claims 1, 6-11 and 16-21 have been fully considered but they are not persuasive.

22. In the remark, applicant argued that (1), Morioka et al and Raju et al fail to teach to record imperfect index in a first management area, generate perfect index data based on management data stored in a second management area and rewrite the imperfect index data with the perfect index data.

23. Examiner respectfully traverse the arguments that:

As to point (1), Morioka et al disclosed a first management area for storing index data (col.1, lines 46-52, col.8, lines 22-29, 45-49, col.18, lines 8-11) and a second management area for storing management data (col.1, lines 54-64, col.4, lines 53 to col.5, line 7, col.8, lines 45-61, col.11, lines 20-32, col.7, lines 61-66, col.12, lines 1-5, 13-20, 58-67). Morioka et al did not specifically teach to store imperfect index data. However, it would have been obvious that the storing portion can store corrupted index data. Raju et al taught a method to generate perfect index data and rewrites over the corrupted index data (col.10, lines 64-67, col.11, lines 2-9). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Morioka et al and Raju et al because Raju et al's teaching of rewriting imperfect index data with perfect index data would correct the corrupted index data that cause

Art Unit: 2154

the data programs to be unreproducible in Morioka et al's system, therefore enable the system to reproduce the stored data using the perfect index data.

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Takezawa et al, US 5,440,529.

25. A shortened statutory period for reply to this Office action is set to expire THREE MONTHS from the mailing date of this action.


26. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenny Lin whose telephone number is (703)305-0438. The examiner can normally be reached on 8 AM to 5 PM Tuesday to Friday and every other Monday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (703)305-9678. Additionally, the fax numbers for Group 2100 are as follows:

Official Responses: (703) 872-9306

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-6121.

ksl
October 28, 2003


MENG-AL T. AN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100